

fore the Lords Commissioners of Appeals in Prize Causes.

De TWEE GESUSTERS,

HENRICUS JUBBE BREHOFF, Master.

Anthony Songa, of Warnford Court, Throgmorton Street, London, Merchant, Claimant on behalf of Joseph De la Ville Le Roulx, of the City of Ghent, Merchant, and a Subject of his Imperial and Royal Majesty the Emperor of Germany, of Fourteen Hogsheds of White Sugar, marked $\triangle$, laden on board the said Ship De Twee Gesusters (Henricus Jubbe Brehoff, Master), at the Time of the Capture and Seizure thereof by the Private Ship of War the Bird (whereof Thomas Peake was Commander), and therewith taken and seized, - - - - - Appellant.

Thomas Peake, Commander of the Private Ship of War the Bird, the Captor and Seizer of the said Ship and Goods, - - - - - Respondent.

C A S E on behalf of the Appellant.

THIS is a Dutch Ship, of the Burthen of about Seventy-two Lasts, or One Hundred and Twenty-four English Tons; and was taken by the said Private Ship of War the Bird (Thomas Peake Commander), in the Latitude of about Forty-nine Degrees and Four Minutes, on the Seventh Day of March 1781, as she was proceeding on a Voyage from St. Eustatia to Amsterdam, with a Cargo consisting of Sugar, Coffee, Cocoa, Indigo, Tobacco, Casco-rella, and some other Merchandize, and was brought to the Port of Falmouth.

C. Bishop, as Proctor for the said Captor, brought in an Attestation, with One Hundred and Twenty-six Papers annexed; and the usual Monition was decreed.

C. Bishop brought in Three Examinations in Preparatory, taken at Falmouth.

The said Monition was returned duly executed; and the Captor, without continuing the Certificate, immediately proceeded to the Condemnation of the said Ship and Cargo: When the Judge, having heard the Preparatory Examinations, and Ship's Papers read, condemned the Ship as Prize, reserved

reversed the Adjudication of certain Goods which *N. Goffling* alleged he had Orders to claim, and condemned the rest of the Goods, Wares, and Merchandizes laden on board the said Ship, and therewith taken and seized as Enemies Property, and as such, or otherwise, subject and liable to Confiscation, and as good and lawful Prize to the aforesaid Captor.

It being well known, at the Time the *Dutch* War broke out, that sundry Neutral and other Imperial Subjects, carried on their Trade by means of the *Dutch*; and that almost every *Dutch* Ship had Imperial or other Neutral Property on board; the Proctors for Captors did not, in general, proceed to an immediate Condemnation of the Cargoes taken on board *Dutch* Ships; and this is almost the only Instance of a Cargo on board a *Dutch* Ship being condemned on the Return of the Monition.

Among the rest of the Cargo were Fourteen Hogheads of White Sugar, marked Δ , the Property of *Joseph de la Ville le Roulx*, of the City of *Ghent*, Merchant, and a Subject of his Imperial and Royal Majesty the Emperor of *Germany*; who having heard that the said Ship was taken,

Sept. 21, 1781.

Appeared before the Magistrates of the Corporation and Council of the said City of *Ghent*, and made the fullest Attestation as to the said Goods being his own Property, and that Messrs, *Runnells* and *Akkringa*, Merchants at *St. Eustatius*, did load, or cause to be loaden, in the Month of *December* then last past, to the Consignment of Mr. *G. J. Boissevain* at *Amsterdam*, the before-mentioned Goods on board the said Ship, and the Bill of Lading for the said Goods, which was found on board the said Ship, and is printed in the Appendix, expresses the said Goods to be shipped by the said *Runnells* and *Akkringa*, and to be consigned to the said *Boissevain*, but does not say for whose Account or Risk the same were shipped.

The said *Joseph De la Ville Le Roulx* immediately forwarded such Affidavit to *Anthony Songa*, his Imperial Majesty's Consul at *London*, who received the same on or about the 3d Day of *October* following; but the said Ship's Cargo having been condemned so immediately after the Capture, no Claim could be given in the High Court of Admiralty of *England*; with which the said *Anthony Songa* acquainted the said *Joseph de la Ville le Roulx*, and that he could only recover his said Goods by entering a Claim for the same in this Court, and prosecuting an Appeal from the said Condemnation; and the said *Anthony Songa* having received Orders to enter such Claim and prosecute such Appeal,

Feb. 6, 1782.

The said Appeal was interposed, and a Claim given for the said Goods on behalf of the said *Joseph de la Ville le Roulx*; and to such Claim was annexed an Attestation of the said *Anthony Songa* as usual, and also the before-mentioned Attestation of Property made by the said *Joseph de la Ville le Roulx*, at the same Time Bail was given to prosecute the said Appeal, and the usual Inhibition, Citation, and Monition was decreed; which having been since duly executed and returned, an Appearance having been given for the Respondent, and the several necessary previous Steps having been taken, the Appeal now comes on for hearing.

The several Witnesses examined in Preparatory all swear, that they believe the Cargo to belong to Subjects of the *States-General*. The Bills of Lading do not say for whose Account and Risk the same was shipped; and among the Ship's Papers is found a Cover addressed to Mr. *Gideon Jer. Boissevain*, Merchant at *Amsterdam*, per Captain *Henricus Labe Brethoff*, in which are contained a Letter from the said Messrs. *Runnells* and *Akkringa*, dated *St. Eustatius*, 20th *January* 1781, addressed to Mr. *Gideon Jeremias Boissevain*, Four Accounts of Sales mentioned in such Letter, a Bill of Lading and Invoice for the Goods now claimed, and in such Letter and Invoice the said Goods are expressed to be for the Account of the said *Gideon Jeremias Boissevain*; but it being now well known that the several Imperial Merchants residing at *Ghent*, *Bruges*, and other Places in *Flanders*, carried on their Trade by means of the *Dutch* Merchants who acted as Factors or Agents, for which they were allowed the usual Commission, but had not any Interest whatever in the Property of the Goods, the Claimant submits, that neither the said Papers, which are not on Oath, or the Evidence of the Witnesses examined in Preparatory, which amounts to no more than Belief founded on the said Goods being to be delivered at *Amsterdam*, will avail against the full Attestation of Property made by the said *Joseph de la Ville le Roulx*, and that therefore the said Decree condemning the rest of the Goods, Wares, and Merchandizes on board the said Ship will be reversed as to the said Goods claimed, and that the same, or the full Value thereof, shall be decreed to be restored, and that the Captor may be condemned in Costs and Damages for having proceeded in so precipitate a Manner to the Condemnation of the said Cargo.

J. MANSFIELD.

WM. SCOTT.

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HENRICUS JUBBE BREHOFF, Master.

Anthony Songa, of Warrford Court,
Throgmorton Street, London,
Merchant, Claimant on Behalf of
Joseph de la Ville le Roulx, of
the City of Ghent, Merchant, and } Appellant.
a Subject of his Imperial and Royal
Majesty the Emperor of Germany,
of Fourteen Hogheads of White
Sugar, marked A.

Thomas Peake, Commander of the
Private Ship of War the Bird, the
Captain and Seizer of the said Ship
and Goods, } Respondent.

CASE on behalf of the Appellant.

To be heard before their Lordships, at the Cockpit, White-
hall, on Thursday the 29th Day of May 1783.